

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
HOUSE BILL 3234**

1 On page 1 of the printed bill, line 2, delete “creating new provisions;”.

2 Delete lines 3 and 4 and insert “ORS 21.010, 109.322, 151.216, 161.367,
3 161.370, 161.371, 166.273, 179.325, 179.471, 179.485, 179.492, 181A.290, 419C.529,
4 421.245, 421.284, 421.296, 428.210, 428.220, 428.230, 428.240, 428.260, 428.270 and
5 480.225; repealing ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265,
6 427.270, 427.275, 427.280, 427.285, 427.290, 427.293, 427.295, 427.300 and 427.306;
7 and prescribing an effective date.”.

8 Delete lines 6 through 29 and delete pages 2 through 7 and insert:

9 **“SECTION 1. ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265,**
10 **427.270, 427.275, 427.280, 427.285, 427.290, 427.293, 427.295, 427.300 and**
11 **427.306 are repealed.**

12 **“SECTION 2. ORS 21.010 is amended to read:**

13 “21.010. (1) Except as provided in this section, the appellant in an appeal
14 or the petitioner in a judicial review in the Supreme Court or the Court of
15 Appeals shall pay a filing fee of \$391 in the manner prescribed by ORS 19.265.
16 The respondent in such case and any other person appearing in the appeal,
17 upon entering first appearance or filing first brief in the court, shall pay to
18 the State Court Administrator a filing fee of \$391. The party entitled to
19 costs and disbursements on such appeal shall recover from the opponent the
20 amount so paid.

21 “(2) Filing and appearance fees may not be assessed in appeals from

1 habeas corpus proceedings under ORS 34.710, post-conviction relief pro-
2 ceedings under ORS 138.650, juvenile court under ORS 419A.200[,] **or** the in-
3 voluntary commitment of persons determined to be persons with mental
4 illness under ORS 426.135 [*or persons determined to have an intellectual dis-*
5 *ability under ORS 427.295*] or orders of the State Board of Parole and Post-
6 Prison Supervision or on judicial review of orders entered under ORS 161.315
7 to 161.351 by the Psychiatric Security Review Board.

8 “(3) Filing and appearance fees shall be assessed in an appeal from an
9 appeal to a circuit court from a justice court or municipal court in an action
10 alleging commission of a state offense designated as a violation or an action
11 alleging violation of a city charter or ordinance, but not in an action alleg-
12 ing commission of a state crime.

13 “(4) Filing and appearance fees shall only be assessed in an appeal in a
14 contempt proceeding seeking imposition of remedial sanctions under the
15 provisions of ORS 33.055.

16 “(5) The filing and appearance fees established by this section apply to
17 cases of original jurisdiction in the Supreme Court.

18 **“SECTION 3.** ORS 109.322 is amended to read:

19 “109.322. (1) If a parent has been adjudged to be a person with mental
20 illness under ORS 426.130 [*or a person with an intellectual disability who is*
21 *in need of commitment for residential care, treatment and training under ORS*
22 *427.290,*] and remains so at the time of the adoption proceedings, or if a
23 parent is imprisoned in a state or federal prison under a sentence for a term
24 of not less than three years and has actually served three years, the
25 petitioner, in accordance with ORS 109.330, shall serve on the parent, if the
26 parent has not consented in writing to the adoption, a summons and a mo-
27 tion and order to show cause why the adoption of the child should not be
28 ordered without the parent’s consent.

29 “(2) In the case of a parent adjudged to be a person with mental illness
30 under ORS 426.130 [*or a person with an intellectual disability who is in need*

1 *of commitment for residential care, treatment and training under ORS*
2 *427.290*], the petitioner shall also serve the summons and the motion and
3 order to show cause upon the guardian of the parent. If the parent has no
4 guardian, the court shall appoint a guardian ad litem to appear for the par-
5 ent in the adoption proceedings.

6 “(3) Upon hearing, except as provided in ORS 109.330 (8) if the child is
7 an Indian child, if the court finds that the adoption is in the best interests
8 of the child, the consent of the parent who is imprisoned or adjudged to be
9 a person with mental illness [*or an intellectual disability*] is not required, and
10 the court may proceed regardless of the objection of the parent.

11 “(4) This section does not apply when consent is given in loco parentis
12 under ORS 109.325 or 109.327.

13 **“SECTION 4.** ORS 151.216 is amended to read:

14 “151.216. (1) The Public Defense Services Commission shall:

15 “(a) Establish and maintain a public defense system that ensures the
16 provision of public defense services consistent with the Oregon Constitution,
17 the United States Constitution and Oregon and national standards of justice.

18 “(b) Establish an office of public defense services and appoint a public
19 defense services executive director who serves at the pleasure of the com-
20 mission.

21 “(c) Adopt policies for contracting for public defense providers not em-
22 ployed by the office of public defense services that:

23 “(A) Ensure compensation, resources and caseloads are in accordance
24 with national and regional best practices;

25 “(B) Promote policies for public defense provider compensation and re-
26 sources that are comparable to prosecution compensation and resources;

27 “(C) Ensure funding and resources to support required data collection and
28 training requirements; and

29 “(D) Recognize the need to consider overhead costs that account for the
30 cost of living and business cost differences in each county or jurisdiction,

1 including but not limited to rent, professional membership dues, malpractice
2 insurance and other insurance and other reasonable and usual operating
3 costs.

4 “(d) Establish operational and contracting systems that allow for over-
5 sight, ensure transparency and stakeholder engagement and promote equity,
6 inclusion and culturally specific representation.

7 “(e) Review the caseload policies described in paragraph (c)(A) of this
8 subsection annually, and revise the policies as necessary and at least every
9 four years.

10 “(f) Adopt a statewide workload plan, based on the caseload policies de-
11 scribed in paragraph (c)(A) of this subsection, that takes into account the
12 needs of each county or jurisdiction, practice structure and type of practice
13 overseen by the office of public defense services.

14 “(g) Submit the budget of the commission and the office of public defense
15 services to the Legislative Assembly after the budget is submitted to the
16 commission by the director and approved by the commission. The Chief Jus-
17 tice of the Supreme Court and the chairperson of the commission shall
18 present the budget to the Legislative Assembly.

19 “(h) Review and approve any public defense services contract negotiated
20 by the director before the contract can become effective.

21 “(i) Adopt a compensation plan, classification system and personnel plan
22 for the office of public defense services that are commensurate with other
23 state agencies.

24 “(j) Adopt policies, procedures, standards and guidelines regarding:

25 “(A) The determination of financial eligibility of persons entitled to be
26 represented by appointed counsel at state expense;

27 “(B) The appointment of counsel, including the appointment of counsel
28 at state expense regardless of financial eligibility in juvenile delinquency
29 matters;

30 “(C) The fair compensation of counsel appointed to represent a person

1 financially eligible for appointed counsel at state expense;

2 “(D) Appointed counsel compensation disputes;

3 “(E) Any other costs associated with the representation of a person by
4 appointed counsel in the state courts that are required to be paid by the
5 state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365,
6 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,
7 419C.535, 426.100, 426.135, 426.250, 426.307, [427.265, 427.295,] 436.265 or 436.315
8 or any other provision of law that expressly provides for payment of such
9 compensation, costs or expenses by the commission;

10 “(F) Professional qualifications for counsel appointed to represent public
11 defense clients;

12 “(G) Performance for legal representation;

13 “(H) The contracting of public defense services;

14 “(I) Contracting with expert witnesses to allow contracting with out-of-
15 state expert witnesses only if in-state expert witnesses are not available or
16 are more expensive than out-of-state expert witnesses; and

17 “(J) Any other matters necessary to carry out the duties of the commis-
18 sion.

19 “(k) Establish a peer review system for the approval of nonroutine fees
20 and expenses incurred in cases involving aggravated murder and the crimes
21 listed in ORS 137.700 and 137.707. The review shall be conducted by a panel
22 of attorneys who practice in the area of criminal defense.

23 “(L) Establish a complaint process that allows district attorneys, criminal
24 defense counsel and the public to file complaints concerning the payment
25 from public funds of nonroutine fees and expenses incurred in cases.

26 “(m) Reimburse the State Court Administrator from funds deposited in the
27 Public Defense Services Account established by ORS 151.225 for the costs of
28 personnel and other costs associated with location of eligibility verification
29 and screening personnel pursuant to ORS 151.489 by the State Court Ad-
30 ministrator.

1 “(2) Policies, procedures, standards and guidelines adopted by the com-
2 mission supersede any conflicting rules, policies or procedures of the Public
3 Defender Committee, State Court Administrator, circuit courts, the Court of
4 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
5 lated to the exercise of the commission’s administrative responsibilities un-
6 der this section and transferred duties, functions and powers as they occur.

7 “(3) The commission may accept gifts, grants or contributions from any
8 source, whether public or private. However, the commission may not accept
9 a gift, grant or contribution if acceptance would create a conflict of interest.
10 Moneys accepted under this subsection shall be deposited in the Public De-
11 fense Services Account established by ORS 151.225 and expended for the
12 purposes for which given or granted.

13 “(4) The commission may not:

14 “(a) Make any decision regarding the handling of any individual case;

15 “(b) Have access to any case file; or

16 “(c) Interfere with the director or any member of the staff of the director
17 in carrying out professional duties involving the legal representation of
18 public defense clients.

19 **“SECTION 5.** ORS 161.367 is amended to read:

20 “161.367. (1) If at any time the court determines that the defendant lacks
21 fitness to proceed, the court shall further determine whether there is a sub-
22 stantial probability that the defendant, in the foreseeable future, will gain
23 or regain fitness to proceed. If the court determines that there is no sub-
24 stantial probability that the defendant, in the foreseeable future, will gain
25 or regain fitness to proceed, the court shall dismiss, without prejudice, all
26 charges against the defendant and:

27 “(a) Order that the defendant be discharged; or

28 “(b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or*
29 *427.235 to 427.290*].

30 “(2)(a) The superintendent of the hospital or director of the facility in

1 which the defendant is committed under ORS 161.370 or a person examining
2 the defendant as a condition of release to community restoration services
3 shall notify the court if the defendant gains or regains fitness to proceed.

4 “(b) A party to the case may notify the court if the defendant has gained
5 or regained fitness to proceed.

6 “(c) The court may, upon its own motion or the request of either party,
7 hold a hearing to determine whether the defendant has gained or regained
8 fitness to proceed. If the court determines that the defendant has gained or
9 regained fitness to proceed, the court shall resume the criminal proceeding
10 unless the court determines that so much time has elapsed since the com-
11 mitment or release of the defendant to community restoration services that
12 it would be unjust to resume the criminal proceeding. If the court determines
13 that it would be unjust to resume the criminal proceeding, the court, on
14 motion of either party, may dismiss the charge and may order the defendant
15 to be discharged or cause a proceeding to be commenced forthwith under
16 ORS 426.070 to 426.170[,] **or** 426.701 [*or 427.235 to 427.290*].

17 “(3) If the defendant gains or regains fitness to proceed, the defendant
18 shall be given credit against each charge alleged in the accusatory instru-
19 ment for each day the defendant was committed under ORS 161.370 to the
20 custody of a state mental hospital, or to the custody of a secure intensive
21 community inpatient facility designated by the Oregon Health Authority.

22 “(4) Notwithstanding the suspension of the criminal proceeding under
23 ORS 161.370 (2), the fact that the defendant is unfit to proceed does not
24 preclude any objection through counsel and without the personal partic-
25 ipation of the defendant on the grounds that the indictment is insufficient,
26 that the statute of limitations has run, that double jeopardy principles apply
27 or upon any other ground at the discretion of the court which the court
28 deems susceptible of fair determination prior to trial.

29 “(5) At the time that the court determines that the defendant lacks fitness
30 to proceed under ORS 161.370 (2), the court shall notify the defendant in

1 writing that federal law prohibits the defendant from purchasing or possess-
2 ing a firearm unless the person obtains relief from the prohibition under
3 federal law. The court shall again notify the defendant in writing of the
4 prohibition if the court finds that the defendant has gained or regained fit-
5 ness to proceed under subsection (2) of this section.

6 **“SECTION 6.** ORS 161.370 is amended to read:

7 “161.370. (1)(a) When the defendant’s fitness to proceed is drawn in ques-
8 tion, the issue shall be determined by the court.

9 “(b) If neither the prosecuting attorney nor counsel for the defendant
10 contests the finding of the report filed under ORS 161.365, the court may
11 make the determination on the basis of the report. If the finding is contested,
12 the court shall hold a hearing on the issue. If the report is received in evi-
13 dence in the hearing, the party who contests the finding has the right to
14 summon and to cross-examine any certified evaluator who submitted the re-
15 port and to offer evidence upon the issue. Other evidence regarding the
16 defendant’s fitness to proceed may be introduced by either party.

17 “(2)(a) If the court determines that the defendant lacks fitness to proceed,
18 the criminal proceeding against the defendant shall be suspended and the
19 court shall proceed in accordance with this subsection.

20 “(b) After making the determination under paragraph (a) of this sub-
21 section, the court shall receive a recommendation from a community mental
22 health program director or the director’s designee, and from any local entity
23 that would be responsible for treating the defendant if the defendant were
24 to be released in the community, concerning whether appropriate community
25 restoration services are present and available in the community.

26 “(c) If the parties agree as to the appropriate action under this section,
27 the court may, after making all findings required by law, enter any order
28 authorized by this section. If the parties do not agree as to the appropriate
29 action, the court and the parties shall, at a hearing, consider an appropriate
30 action in the case, and the court shall make a determination and enter an

1 order necessary to implement the action. In determining the appropriate
2 action, the court shall consider the primary and secondary release criteria
3 as defined in ORS 135.230, the least restrictive option appropriate for the
4 defendant, the needs of the defendant and the interests of justice. Actions
5 may include but are not limited to:

6 “(A) Commitment for the defendant to gain or regain fitness to proceed
7 under subsection (3) or (4) of this section;

8 “(B) An order to engage in community restoration services, as recom-
9 mended by the community mental health program director or designee, under
10 subsection (6) of this section;

11 “(C) Commencement of a civil commitment proceeding under ORS 426.070
12 to 426.170[,] **or** 426.701 [*or 427.235 to 427.290*];

13 “(D) Commencement of protective proceedings under ORS chapter 125; or

14 “(E) Dismissal of the charges pursuant to ORS 135.755.

15 “(d) If the court, while considering or ordering an appropriate action un-
16 der this subsection, does not order the defendant committed to a state mental
17 hospital or other facility, but finds that appropriate community restoration
18 services are not present and available in the community, for any defendant
19 remaining in custody after such determination, the court shall set a review
20 hearing seven days from the date of the determination under paragraph (a)
21 of this subsection. At the review hearing, the court shall consider all rele-
22 vant information and determine if commitment to the state mental hospital
23 or other facility is appropriate under subsection (3) or (4) of this section, or
24 if another action described in paragraph (c) of this subsection is appropriate.
25 At the conclusion of the hearing the court shall enter an order in accordance
26 with the defendant’s constitutional rights to due process.

27 “(e) If the court determines that the appropriate action in the case is an
28 order for the defendant to engage in community restoration services, but the
29 defendant has a pending criminal case, warrant or hold in one or more other
30 jurisdictions, the other jurisdictions shall, within two judicial days of be-

1 coming aware of the proceeding under this section, communicate with the
2 court and the other jurisdictions, if applicable, to develop a plan to address
3 the interests of all jurisdictions in the defendant in a timely manner.

4 “(3)(a) If the most serious offense in the charging instrument is a felony,
5 the court shall commit the defendant to the custody of the superintendent
6 of a state mental hospital or director of a facility designated by the Oregon
7 Health Authority if the defendant is at least 18 years of age, or to the cus-
8 tody of the director of a secure intensive community inpatient facility des-
9 igned by the authority if the defendant is under 18 years of age, if the
10 court makes the following findings:

11 “(A) The defendant requires a hospital level of care due to public safety
12 concerns if the defendant is not hospitalized or in custody or the acuity of
13 symptoms of the defendant’s qualifying mental disorder; and

14 “(B) Based on the findings resulting from a consultation described in ORS
15 161.365 (1), if applicable, from any information provided by community-based
16 mental health providers or any other sources, and primary and secondary
17 release criteria as defined in ORS 135.230, the appropriate community resto-
18 ration services are not present and available in the community.

19 “(b) If the defendant is committed under this subsection, the community
20 mental health program director, or director’s designee, shall at regular in-
21 tervals, during any period of commitment, review available community res-
22 toration services and maintain communication with the defendant and the
23 superintendent of the state mental hospital or director of the facility in order
24 to facilitate an efficient transition to treatment in the community when or-
25 dered.

26 “(c) If the court does not order the commitment of the defendant under
27 this subsection, the court shall proceed in accordance with subsection (2)(c)
28 of this section to determine and order an appropriate action other than
29 commitment.

30 “(4)(a) If the most serious offense in the charging instrument is a

1 misdemeanor, the court may not commit the defendant to the custody of the
2 superintendent of a state mental hospital or director of a facility designated
3 by the Oregon Health Authority if the defendant is at least 18 years of age,
4 or to the custody of the director of a secure intensive community inpatient
5 facility designated by the authority if the defendant is under 18 years of age,
6 unless the court:

7 “(A)(i) Receives a recommendation from a certified evaluator that the
8 defendant requires a hospital level of care due to the acuity of symptoms of
9 the defendant’s qualifying mental disorder; and

10 “(ii) Receives a recommendation from a community mental health program
11 director, or director’s designee, that the appropriate community restoration
12 services are not present and available in the community; or

13 “(B) Determines that the defendant requires a hospital level of care after
14 making all of the following written findings:

15 “(i) The defendant needs a hospital level of care due to the acuity of the
16 symptoms of the defendant’s qualifying mental disorder;

17 “(ii) There are public safety concerns; and

18 “(iii) The appropriate community restoration services are not present and
19 available in the community.

20 “(b) If at the time of determining the appropriate action for the case, the
21 court is considering commitment under paragraph (a)(A) of this subsection
22 and:

23 “(A) Has not received a recommendation from a certified evaluator as to
24 whether the defendant requires a hospital level of care due to the acuity of
25 symptoms of the defendant’s qualifying mental disorder, the court shall order
26 a certified evaluator to make such a recommendation.

27 “(B) Has not received a recommendation from the community mental
28 health program director or designee concerning whether appropriate com-
29 munity restoration services are present and available in the community, the
30 court shall order the director or designee to make such a recommendation.

1 “(c) If the court does not order the commitment of the defendant under
2 this subsection, the court shall proceed in accordance with subsection (2)(c)
3 of this section to determine and order an appropriate action other than
4 commitment.

5 “(d) If the defendant is committed under this subsection, the community
6 mental health program director, or director’s designee, shall at regular in-
7 tervals, during any period of commitment, review available community res-
8 toration services and maintain communication with the defendant and the
9 superintendent of the state mental hospital or director of the facility in order
10 to facilitate an efficient transition to treatment in the community when or-
11 dered.

12 “(5) If the most serious offense in the charging instrument is a violation,
13 the court may not commit the defendant to the custody of the superintendent
14 of a state mental hospital or director of a facility designated by the Oregon
15 Health Authority if the defendant is at least 18 years of age, or to the cus-
16 tody of the director of a secure intensive community inpatient facility des-
17 igned by the authority if the defendant is under 18 years of age.

18 “(6)(a) If the court does not order the commitment of the defendant under
19 subsection (3) or (4) of this section, if commitment is precluded under sub-
20 section (5) of this section or if the court determines that care other than
21 commitment would better serve the defendant and the community, the court
22 shall release the defendant, pursuant to an order that the defendant engage
23 in community restoration services, until the defendant has gained or re-
24 gained fitness to proceed, or until the court finds there is no substantial
25 probability that the defendant will, within the foreseeable future, gain or
26 regain fitness to proceed. The court may not order the defendant to engage
27 in community restoration services in another county without permission
28 from the other county.

29 “(b) The court may order a community mental health program director
30 coordinating the defendant’s treatment in the community to provide the

1 court with status reports on the defendant's progress in gaining or regaining
2 fitness to proceed. The director shall provide a status report if the defendant
3 is not complying with court-ordered restoration services.

4 “(c) A community mental health program director coordinating the
5 defendant's treatment in the community shall notify the court if the defend-
6 ant gains or regains fitness to proceed. The notice shall be filed with the
7 court and may be filed electronically. The clerk of the court shall cause
8 copies of the notice to be delivered to both the district attorney and the
9 counsel for the defendant.

10 “(d) When a defendant is ordered to engage in community restoration
11 services under this subsection, the court may place conditions that the court
12 deems appropriate on the release, including the requirement that the de-
13 fendant regularly report to a state mental hospital or a certified evaluator
14 for examination to determine if the defendant has gained or regained fitness
15 to proceed.

16 “(7) The Oregon Health Authority shall establish by rule standards for
17 the recommendation provided to the court described in subsection (2) of this
18 section.

19 **“SECTION 7.** ORS 161.371 is amended to read:

20 “161.371. (1) The superintendent of a state mental hospital or director of
21 a facility to which the defendant is committed under ORS 161.370 shall cause
22 the defendant to be evaluated within 60 days from the defendant's delivery
23 into the superintendent's or director's custody, for the purpose of determin-
24 ing whether there is a substantial probability that, in the foreseeable future,
25 the defendant will have fitness to proceed. In addition, the superintendent
26 or director shall:

27 “(a) Immediately notify the committing court if the defendant, at any
28 time, gains or regains fitness to proceed or if there is no substantial proba-
29 bility that, within the foreseeable future, the defendant will gain or regain
30 fitness to proceed.

1 “(b) Within 90 days of the defendant’s delivery into the superintendent’s
2 or director’s custody, notify the committing court that:

3 “(A) The defendant has present fitness to proceed;

4 “(B) There is no substantial probability that, in the foreseeable future, the
5 defendant will gain or regain fitness to proceed; or

6 “(C) There is a substantial probability that, in the foreseeable future, the
7 defendant will gain or regain fitness to proceed. If the probability exists, the
8 superintendent or director shall give the court an estimate of the time in
9 which the defendant, with appropriate treatment, is expected to gain or re-
10 gain fitness to proceed.

11 “(c) Notify the court if court-ordered involuntary medication is necessary
12 for the defendant to gain or regain fitness to proceed and, if appropriate,
13 submit a report to the court under ORS 161.372.

14 “(2)(a) If the superintendent of the state mental hospital or director of the
15 facility to which the defendant is committed determines that there is a sub-
16 stantial probability that, in the foreseeable future, the defendant will gain
17 or regain fitness to proceed, unless the court otherwise orders, the defendant
18 shall remain in the superintendent’s or director’s custody where the defend-
19 ant shall receive treatment designed for the purpose of enabling the defend-
20 ant to gain or regain fitness to proceed. In keeping with the notice
21 requirement under subsection (1)(b) of this section, the superintendent or
22 director shall, for the duration of the defendant’s period of commitment,
23 submit a progress report to the committing court, concerning the defendant’s
24 fitness to proceed, at least once every 180 days as measured from the date
25 of the defendant’s delivery into the superintendent’s or director’s custody.

26 “(b) A progress report described in paragraph (a) of this subsection may
27 consist of an update to:

28 “(A) The original examination report conducted under ORS 161.365; or

29 “(B) An evaluation conducted under subsection (1) of this section, if the
30 defendant did not receive an examination under ORS 161.365.

1 “(3)(a) Notwithstanding subsection (2) of this section, if the most serious
2 offense in the charging instrument is a felony, and the superintendent of the
3 state mental hospital or director of the facility to which the defendant is
4 committed determines that a hospital level of care is no longer necessary due
5 to present public safety concerns and the acuity of symptoms of the
6 defendant’s qualifying mental disorder, the superintendent or director may
7 file notice of the determination with the court. Upon receipt of the notice,
8 the court shall order that a community mental health program director or
9 the director’s designee, within five judicial days:

10 “(A) Consult with the defendant and with any local entity that would be
11 responsible for providing community restoration services, if the defendant
12 were to be released in the community, to determine whether community res-
13 toration services are present and available in the community; and

14 “(B) Provide the court and the parties with recommendations from the
15 consultation.

16 “(b) Notwithstanding subsection (2) of this section, if the most serious
17 offense in the charging instrument is a felony, and the community mental
18 health program director determines that community restoration services that
19 would mitigate any risk posed by the defendant are present and available in
20 the community, the community mental health program director may file no-
21 tice of the determination with the court. Upon receipt of the notice, the
22 court shall order that the superintendent of the state mental hospital or di-
23 rector of the facility to which the defendant is committed, within five judi-
24 cial days:

25 “(A) Evaluate the defendant to determine whether a hospital level of care
26 is no longer necessary due to present public safety concerns, or no longer
27 necessary due to the acuity of symptoms of the defendant’s qualifying mental
28 disorder; and

29 “(B) Provide the court and the parties with recommendations from the
30 evaluation.

1 “(c) Within 10 judicial days of receiving the recommendations described
2 in paragraph (a) or (b) of this subsection, the court shall hold a hearing to
3 determine an appropriate action in accordance with ORS 161.370 (2)(c) as
4 follows:

5 “(A) If, after consideration of the factors and possible actions described
6 in ORS 161.370 (2)(c) and any recommendations received under paragraph (a)
7 or (b) of this subsection, the court determines that a hospital level of care
8 is necessary due to public safety concerns or the acuity of symptoms of the
9 defendant’s qualifying mental disorder, and that based on the consultation
10 or evaluation described in paragraph (a) or (b) of this subsection, any infor-
11 mation provided by community-based mental health providers or any other
12 sources, primary and secondary release criteria as defined in ORS 135.230,
13 and any other information the court finds to be trustworthy and reliable, the
14 appropriate community restoration services are not present and available in
15 the community, the court may continue the commitment of the defendant.

16 “(B) If the court does not make the determination described in subpara-
17 graph (A) of this paragraph, the court shall terminate the commitment and
18 shall set a review hearing seven days from the date of the commitment ter-
19 mination for any defendant remaining in custody. At the review hearing, the
20 court shall consider all relevant information, determine an appropriate
21 action in the case as described in ORS 161.370 (2)(c) and enter an order in
22 accordance with the defendant’s constitutional rights to due process.

23 “(4)(a) Notwithstanding subsection (2) of this section, if the most serious
24 offense in the charging instrument is a misdemeanor, and the superintendent
25 of the state mental hospital or director of the facility to which the defendant
26 is committed determines that the defendant no longer needs a hospital level
27 of care due to the acuity of symptoms of the defendant’s qualifying mental
28 disorder or there are not present public safety concerns, the superintendent
29 or director shall file notice of the determination with the court, along with
30 recommendations regarding the necessary community restoration services

1 that would mitigate any risk presented by the defendant. Upon receipt of the
2 notice, the court shall order that a community mental health program di-
3 rector or the director's designee, within five judicial days:

4 “(A) Consult with the defendant and with any local entity that would be
5 responsible for providing community restoration services, if the defendant
6 were to be released in the community, to determine whether appropriate
7 community restoration services are present and available in the community;
8 and

9 “(B) Provide the court and the parties with recommendations from the
10 consultation.

11 “(b) Notwithstanding subsection (2) of this section, if the most serious
12 offense in the charging instrument is a misdemeanor, and the community
13 mental health program director determines that the community restoration
14 services that would mitigate any risk posed by the defendant are present and
15 available in the community, the community mental health program director
16 may file notice of the determination with the court. Upon receipt of the no-
17 tice, the court shall order that the superintendent of the state mental hos-
18 pital or director of the facility to which the defendant is committed, within
19 five judicial days:

20 “(A) Evaluate the defendant to determine whether a hospital level of care
21 is no longer necessary due to present public safety concerns, or no longer
22 necessary due to the acuity of symptoms of the defendant's qualifying mental
23 disorder; and

24 “(B) Provide the court and the parties with recommendations from the
25 evaluation.

26 “(c) Within 10 judicial days of receiving the recommendations described
27 in paragraph (a) or (b) of this subsection, the court shall hold a hearing to
28 determine an appropriate action in accordance with ORS 161.370 (2)(c) as
29 follows:

30 “(A) After consideration of the factors and possible actions described in

1 ORS 161.370 (2)(c), the consultation or evaluation and any recommendations
2 described in paragraph (a) or (b) of this subsection, and any other informa-
3 tion the court finds to be trustworthy and reliable, the court may continue
4 the commitment of the defendant if the court makes written findings that a
5 hospital level of care is necessary due to public safety concerns and the
6 acuity of symptoms of the defendant's qualifying mental disorder, and that
7 appropriate community restoration services are not present and available in
8 the community.

9 “(B) If the court does not make the findings described in subparagraph
10 (A) of this paragraph, the court shall terminate the commitment and shall
11 set a review hearing seven days from the date of the commitment termination
12 for any defendant remaining in custody. At the review hearing, the court
13 shall consider all relevant information, determine an appropriate action in
14 the case as described in ORS 161.370 (2)(c) and enter an order in accordance
15 with the defendant's constitutional rights to due process.

16 “(5)(a) If a defendant remains committed under this section, the court
17 shall determine within a reasonable period of time whether there is a sub-
18 stantial probability that, in the foreseeable future, the defendant will gain
19 or regain fitness to proceed. However, regardless of the number of charges
20 with which the defendant is accused, in no event shall the defendant be
21 committed for longer than whichever of the following, measured from the
22 defendant's initial custody date, is shorter:

23 “(A) Three years; or

24 “(B) A period of time equal to the maximum sentence the court could have
25 imposed if the defendant had been convicted.

26 “(b) For purposes of calculating the maximum period of commitment de-
27 scribed in paragraph (a) of this subsection:

28 “(A) The initial custody date is the date on which the defendant is first
29 committed under this section on any charge alleged in the accusatory in-
30 strument; and

1 “(B) The defendant shall be given credit against each charge alleged in
2 the accusatory instrument:

3 “(i) For each day the defendant is committed under this section, whether
4 the days are consecutive or are interrupted by a period of time during which
5 the defendant has gained or regained fitness to proceed; and

6 “(ii) Unless the defendant is charged on any charging instrument with
7 aggravated murder or a crime listed in ORS 137.700 (2), for each day the
8 defendant is held in jail before and after the date the defendant is first
9 committed, whether the days are consecutive or are interrupted by a period
10 of time during which the defendant lacks fitness to proceed.

11 “(c) The superintendent of the state mental hospital or director of the
12 facility to which the defendant is committed shall notify the committing
13 court of the defendant’s impending discharge 30 days before the date on
14 which the superintendent or director is required to discharge the defendant
15 under this subsection.

16 “(6)(a) All notices required under this section shall be filed with the court
17 and may be filed electronically. The clerk of the court shall cause copies of
18 the notices to be delivered to both the district attorney and the counsel for
19 the defendant.

20 “(b) When the committing court receives a notice from the superintendent
21 or director under subsection (1) of this section concerning the defendant’s
22 progress or lack thereof, or under subsection (5) of this section concerning
23 the defendant’s impending discharge, the committing court shall determine,
24 after a hearing if a hearing is requested, whether the defendant presently
25 has fitness to proceed.

26 “(7) If at any time the court determines that the defendant lacks fitness
27 to proceed, the court shall further determine whether the defendant is enti-
28 tled to discharge under subsection (5) of this section. If the court determines
29 that the defendant is entitled to discharge under subsection (5) of this sec-
30 tion, the court shall dismiss, without prejudice, all charges against the de-

1 fendant and:

2 “(a) Order that the defendant be discharged; or

3 “(b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or*
4 *427.235 to 427.290*].

5 **“SECTION 8.** ORS 166.273 is amended to read:

6 “166.273. (1) A person barred from transporting, shipping, possessing or
7 receiving a firearm may file a petition with the Psychiatric Security Review
8 Board for relief from the bar if:

9 “(a) The person is barred from possessing a firearm under ORS 166.250
10 (1)(c)(D) or (E);

11 “(b) The person is barred from receiving a firearm under ORS 166.470
12 (1)(e) or (f) or, if the person has been found guilty except for insanity of a
13 misdemeanor involving violence, ORS 166.470 (1)(g); or

14 “(c) The person is barred from possessing, receiving, shipping or trans-
15 porting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state
16 mental health determination.

17 “(2) The petitioner shall serve a copy of the petition on:

18 “(a) The [*Department of Human Services and the*] Oregon Health Author-
19 ity; and

20 “(b) The district attorney in each county in which:

21 “(A) The person was committed by a court to the Oregon Health Au-
22 thority, or adjudicated by a court as a person with mental illness, under ORS
23 426.130;

24 “[*(B) The person was committed by a court to the Department of Human*
25 *Services, or adjudicated by a court as in need of commitment for residential*
26 *care, treatment and training, under ORS 427.290;*]

27 “[*(C)*] **(B)** The person was found guilty except for insanity under ORS
28 161.295;

29 “[*(D)*] **(C)** The person was found responsible except for insanity under
30 ORS 419C.411; or

1 “[~~(E)~~] (D) The person was found by a court to lack fitness to proceed
2 under ORS 161.370.

3 “(3) Following receipt of the petition, the board shall conduct a contested
4 case hearing, make written findings of fact and conclusions of law on the
5 issues before the board and issue a final order. Board members from the
6 adult panel, the juvenile panel or a combination of both panels of the board
7 may conduct the hearings described in this section.

8 “(4) The state and any person or entity described in subsection (2) of this
9 section may appear and object to and present evidence relevant to the relief
10 sought by the petitioner.

11 “(5) The board shall grant the relief requested in the petition if the
12 petitioner demonstrates, based on the petitioner’s reputation, the petitioner’s
13 record, the circumstances surrounding the firearm disability and any other
14 evidence in the record, that the petitioner will not be likely to act in a
15 manner that is dangerous to public safety and that granting the relief would
16 not be contrary to the public interest.

17 “(6) If the board grants the relief requested in the petition, the board
18 shall provide to the Department of State Police the minimum information
19 necessary, as defined in ORS 181A.290, to enable the department to:

20 “(a) Maintain the information and transmit the information to the federal
21 government as required under federal law; and

22 “(b) Maintain a record of the person’s relief from the disqualification to
23 possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470
24 (1)(e), (f) or (g).

25 “(7) The petitioner may petition for judicial review of a final order of the
26 board. The petition shall be filed in the circuit court of a county described
27 in subsection (2)(b) of this section. The review shall be conducted de novo
28 and without a jury.

29 “(8) A petitioner may take an appeal from the circuit court to the Court
30 of Appeals. Review by the Court of Appeals shall be conducted in accordance

1 with ORS 183.500.

2 “(9) A person may file a petition for relief under this section no more
3 than once every two years.

4 “(10) The board shall adopt procedural rules to carry out the provisions
5 of this section.

6 “(11) As used in this section, ‘state mental health determination’ means:

7 “(a) A finding by a court that a person lacks fitness to proceed under ORS
8 161.370;

9 “(b) A finding that a person is guilty except for insanity of a crime under
10 ORS 161.295 or responsible except for insanity of an act under ORS 419C.411
11 or any determination by the Psychiatric Security Review Board thereafter;
12 **or**

13 “(c) A commitment by a court to the Oregon Health Authority, or an ad-
14 judication by a court that a person is a person with mental illness, under
15 ORS 426.130[; or]

16 “[*(d) A commitment by a court to the Department of Human Services, or*
17 *an adjudication by a court that a person is in need of commitment for resi-*
18 *dential care, treatment and training, under ORS 427.290].*

19 **“SECTION 9.** ORS 179.325 is amended to read:

20 “179.325. [*(1) The Department of Human Services may order the change, in*
21 *all or part, of the purpose and use of any state institution being used as an*
22 *institution for the care and treatment of persons with developmental disabili-*
23 *ties in order to care for persons committed to its custody whenever the de-*
24 *partment determines that a change in purpose and use will better enable this*
25 *state to meet its responsibilities to persons with developmental disabilities. In*
26 *determining whether to order the change, the department shall consider*
27 *changes in the number and source of the admissions of persons with develop-*
28 *mental disabilities.]*

29 “[*(2)*] The Oregon Health Authority may order the change, in all or part,
30 of the purpose and use of any state institution being used as an institution

1 for the care and treatment of persons with mental illness in order to care for
2 persons committed to its custody whenever the authority determines that a
3 change in purpose and use will better enable this state to meet its responsi-
4 bilities to persons with mental illness. In determining whether to order the
5 change, the authority shall consider changes in the number and source of the
6 admissions of persons with mental illness.

7 **“SECTION 10.** ORS 179.471 is amended to read:

8 “179.471. As used in ORS 179.473 [*and 179.478*], unless the context requires
9 otherwise:

10 “(1) ‘Adjudicated youth’ has the meaning given that term in ORS
11 419A.004.

12 “(2) ‘Youth correction facility’ has the meaning given that term in ORS
13 420.005.

14 **“SECTION 11.** ORS 179.485 is amended to read:

15 “179.485. Persons transferred to a state institution for persons with men-
16 tal illness [*or intellectual disabilities*] under ORS 179.473[, 179.478] and
17 420.505 shall be entitled to the same legal rights as any other persons ad-
18 mitted to those institutions.

19 **“SECTION 12.** ORS 179.492 is amended to read:

20 “179.492. (1) The Department of Corrections[, *the Department of Human*
21 *Services*] or the Oregon Health Authority shall dispense as written a pre-
22 scription for a brand-name mental health drug prescribed for a person while
23 the person is in the custody of an institution described in ORS 179.321 [*or*
24 *who has been committed pursuant to ORS 427.235 to 427.290*], if the pre-
25 scription specifies ‘dispense as written’ or contains the notation ‘D.A.W.’ or
26 other words of similar meaning.

27 “(2) If, at the time of commitment to the custody of an institution de-
28 scribed in ORS 179.321 [*or to the custody of the Department of Human Services*
29 *under ORS 427.290*], a person has a prescription for a specified brand-name
30 mental health drug and the prescription specifies ‘dispense as written’ or

1 contains the notation ‘D.A.W.’ or other words of similar meaning, the De-
2 partment of Corrections[, *the Department of Human Services*] or the Oregon
3 Health Authority shall ensure that the person is prescribed the specified
4 brand-name drug until a licensed health professional with prescriptive priv-
5 ileges evaluates the person and becomes responsible for the treatment of the
6 person.

7 **“SECTION 13.** ORS 181A.290 is amended to read:

8 “181A.290. (1) The [*Department of Human Services, the*] Oregon Health
9 Authority, the Psychiatric Security Review Board and the Judicial Depart-
10 ment shall provide the Department of State Police with the minimum infor-
11 mation necessary to identify persons who:

12 “(a) Have been committed by a court to the Oregon Health Authority
13 under ORS 426.130, based on a finding that the person is dangerous to self
14 or others;

15 “(b) Are subject to a court order under ORS 426.130 or 426.133 prohibiting
16 the person from purchasing or possessing a firearm;

17 “[*(c) Have been committed by a court to the Department of Human Services*
18 *under ORS 427.290, based on a finding that the person is dangerous to self*
19 *or others;*]

20 “[*(d)*] (c) Have been found by a court to lack fitness to proceed under
21 ORS 161.370;

22 “[*(e)*] (d) Have been found guilty except for insanity of a crime under ORS
23 161.290 to 161.373;

24 “[*(f)*] (e) Have been found responsible except for insanity for an act under
25 ORS 419C.411;

26 “[*(g)*] (f) Have been placed under the jurisdiction of the Psychiatric Se-
27 curity Review Board under ORS 161.315 to 161.351; or

28 “[*(h)*] (g) Have been committed to a state hospital or facility under ORS
29 161.315 to 161.351 or 419C.529 to 419C.544.

30 “(2) Upon receipt of the information described in this section, the De-

1 partment of State Police shall access and maintain the information and
2 transmit the information to the federal government as required under federal
3 law.

4 “(3) The [*Department of Human Services, the*] Oregon Health Authority,
5 the Psychiatric Security Review Board and the Judicial Department shall
6 enter into agreements with the Department of State Police describing the
7 access to information provided under this section.

8 “(4) The Department of State Police shall adopt rules:

9 “(a) After consulting with the [*Department of Human Services, the*]
10 Oregon Health Authority, the Psychiatric Security Review Board and the
11 Judicial Department, describing the type of information provided to the De-
12 partment of State Police under this section; and

13 “(b) Describing the method and manner of maintaining the information
14 described in this section and transmitting the information to the federal
15 government.

16 “(5) As used in this section, ‘minimum information necessary’ means data
17 elements or nominal information that is necessary or required under federal
18 law to accurately identify a person described in this section and includes the
19 person’s name, date of birth, gender and reference information that identifies
20 the originating agency or court and enables the originating agency or court
21 to locate an underlying record or file of a person described in this section.
22 ‘Minimum information necessary’ does not include any medical, psychiatric
23 or psychological information, case histories or files of a person described in
24 this section or any record or file of an originating agency or court.

25 **“SECTION 14.** ORS 419C.529 is amended to read:

26 “419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411
27 (2), if the court finds by a preponderance of the evidence that the young
28 person, at the time of disposition, has a serious mental condition or has a
29 qualifying mental disorder other than a serious mental condition and pre-
30 sents a substantial danger to others, requiring conditional release or com-

1 mitment to a hospital or facility designated on an individual case basis by
2 the [*Department of Human Services or the*] Oregon Health Authority as pro-
3 vided in subsection (6) of this section, the court shall order the young person
4 placed under the jurisdiction of the Psychiatric Security Review Board.

5 “(2) The court shall determine whether the young person should be com-
6 mitted to a hospital or facility designated on an individual case basis by the
7 [*department or the*] authority, as provided in subsection (6) of this section,
8 or conditionally released pending a hearing before the juvenile panel of the
9 Psychiatric Security Review Board as follows:

10 “(a) If the court finds that the young person is not a proper subject for
11 conditional release, the court shall order the young person committed to a
12 secure hospital or a secure intensive community inpatient facility designated
13 on an individual case basis by the [*department or the*] authority, as provided
14 in subsection (6) of this section, for custody, supervision and treatment
15 pending a hearing before the juvenile panel in accordance with ORS
16 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542 and shall order the young
17 person placed under the jurisdiction of the board.

18 “(b) If the court finds that the young person can be adequately controlled
19 with supervision and treatment services if conditionally released and that
20 necessary supervision and treatment services are available, the court may
21 order the young person conditionally released, subject to those supervisory
22 orders of the court that are in the best interests of justice and the young
23 person. The court shall designate a qualified mental health [*or developmental*
24 *disabilities*] treatment provider or state, county or local agency to supervise
25 the young person on release, subject to those conditions as the court directs
26 in the order for conditional release. Prior to the designation, the court shall
27 notify the qualified mental health [*or developmental disabilities*] treatment
28 provider or agency to whom conditional release is contemplated and provide
29 the qualified mental health [*or developmental disabilities*] treatment provider
30 or agency an opportunity to be heard before the court. After receiving an

1 order entered under this paragraph, the qualified mental health [*or develop-*
2 *mental disabilities*] treatment provider or agency designated shall assume
3 supervision of the young person subject to the direction of the juvenile
4 panel. The qualified mental health [*or developmental disabilities*] treatment
5 provider or agency designated as supervisor shall report in writing no less
6 than once per month to the juvenile panel concerning the supervised young
7 person's compliance with the conditions of release.

8 “(c) For purposes of determining whether to order commitment to a hos-
9 pital or facility or conditional release, the primary concern of the court is
10 the protection of society.

11 “(3) In determining whether a young person should be conditionally re-
12 leased, the court may order examinations or evaluations deemed necessary.

13 “(4) Upon placing a young person on conditional release and ordering the
14 young person placed under the jurisdiction of the board, the court shall no-
15 tify the juvenile panel in writing of the court's conditional release order, the
16 supervisor designated and all other conditions of release pending a hearing
17 before the juvenile panel in accordance with ORS 419C.532, 419C.535,
18 419C.538, 419C.540 and 419C.542.

19 “(5) When making an order under this section, the court shall:

20 “(a) Determine whether the parent or guardian of the young person is
21 able and willing to assist the young person in obtaining necessary mental
22 health [*or developmental disabilities*] services and is willing to acquiesce in
23 the decisions of the juvenile panel. If the court finds that the parent or
24 guardian:

25 “(A) Is able and willing to do so, the court shall order the parent or
26 guardian to sign an irrevocable consent form in which the parent agrees to
27 any placement decision made by the juvenile panel.

28 “(B) Is unable or unwilling to do so, the court shall order that the young
29 person be placed in the legal custody of the [*Department of Human*
30 *Services*] **Oregon Health Authority** for the purpose of obtaining necessary

1 [developmental disabilities services or] mental health services.

2 “(b) Make specific findings on whether there is a victim and, if so,
3 whether the victim wishes to be notified of any board hearings and orders
4 concerning the young person and of any conditional release, discharge or
5 escape of the young person.

6 “(c) Include in the order a list of the persons who wish to be notified of
7 any board hearing concerning the young person.

8 “(d) Determine on the record the act committed by the young person for
9 which the young person was found responsible except for insanity.

10 “(e) State on the record the qualifying mental disorder on which the
11 young person relied for the responsible except for insanity defense.

12 “(6) When the [department designates a facility for the commitment of a
13 young person with a developmental disability under this section, or the] au-
14 thority designates a hospital or facility for commitment of a young person
15 with mental illness under this section, the [department and the] authority
16 shall take into account the care and treatment needs of the young person,
17 the resources available to the [department or the] authority and the safety
18 of the public.

19 **“SECTION 15.** ORS 421.245 is amended to read:

20 “421.245. The Interstate Corrections Compact is enacted into law and en-
21 tered into by this state with all other jurisdictions legally joining therein in
22 the form substantially as follows:

23 “

24 ARTICLE I

25 PURPOSE AND POLICY

26 “The party states, desiring by common action to fully utilize and improve
27 their institutional facilities and provide adequate programs for the confine-
28 ment, treatment and rehabilitation of various types of offenders, declare that
29 it is the policy of each of the party states to provide such facilities and
30 programs on a basis of cooperation with one another, thereby serving the

1 best interests of such offenders and of society and effecting economies in
2 capital expenditures and operational costs. The purpose of this compact is
3 to provide for the mutual development and execution of such programs of
4 cooperation for the confinement, treatment and rehabilitation of offenders
5 with the most economical use of human and material resources.

6 ARTICLE II

7 DEFINITIONS

8 “As used in this compact, unless the context clearly requires otherwise:

9 “(1) ‘State’ means a state of the United States, the United States of
10 America, a territory or possession of the United States, the District of
11 Columbia, the Commonwealth of Puerto Rico.

12 “(2) ‘Sending state’ means a state party to this compact in which con-
13 viction or court commitment was had.

14 “(3) ‘Receiving state’ means a state party to this compact to which an
15 inmate is sent for confinement other than a state in which conviction or
16 court commitment was had.

17 “(4) ‘Inmate’ means a male or female offender who is committed, under
18 sentence to or confined in a penal or correctional institution.

19 “(5) ‘Institution’ means any penal or correctional facility, including but
20 not limited to a facility for persons with mental illness [*or intellectual disa-*
21 *bilities*], in which inmates as defined in subsection (4) of this Article may
22 lawfully be confined.

23 ARTICLE III

24 CONTRACTS

25 “(1) Each party state may make one or more contracts with any one or
26 more of the other party states for the confinement of inmates on behalf of
27 a sending state in institutions situated within receiving states. Any such
28 contract shall provide for:

29 “(a) Its duration.

30 “(b) Payments to be made to the receiving state by the sending state for

1 inmate maintenance, extraordinary medical and dental expenses, and any
2 participation in or receipt by inmates of rehabilitative or correctional ser-
3 vices, facilities, programs or treatment not reasonably included as part of
4 normal maintenance.

5 “(c) Participation in programs of inmate employment, if any, the disposi-
6 tion or crediting of any payments received by inmates on account thereof,
7 and the crediting of proceeds from or disposal of any products resulting
8 therefrom.

9 “(d) Delivery and retaking of inmates.

10 “(e) Such other matters as may be necessary and appropriate to fix the
11 obligations, responsibilities and rights of the sending and receiving states.

12 “(2) The terms and provisions of this compact shall be a part of any
13 contract entered into by the authority of or pursuant thereto, and nothing
14 in any such contract shall be inconsistent therewith.

15 ARTICLE IV

16 PROCEDURES AND RIGHTS

17 “(1) Whenever the duly constituted authorities in a state party to this
18 compact, and which has entered into a contract pursuant to Article III, shall
19 decide that confinement in, or transfer of an inmate to, an institution within
20 the territory of another party state is necessary or desirable in order to
21 provide adequate quarters and care or an appropriate program of rehabili-
22 tation or treatment, said officials may direct that the confinement be within
23 an institution within the territory of said other party state, the receiving
24 state to act in that regard solely as agent for the sending state.

25 “(2) The appropriate officials of any state party to this compact shall have
26 access, at all reasonable times, to any institution in which it has a contrac-
27 tual right to confine inmates for the purpose of inspecting the facilities
28 thereof and visiting such of its inmates as may be confined in the institution.

29 “(3) Inmates confined in an institution pursuant to the terms of this
30 compact shall at all times be subject to the jurisdiction of the sending state

1 and may at any time be removed therefrom for transfer to a prison or other
2 institution within the sending state, for transfer to another institution in
3 which the sending state may have a contractual or other right to confine
4 inmates, for release on probation or parole, for discharge, or for any other
5 purpose permitted by the laws of the sending state; provided, that the send-
6 ing state shall continue to be obligated to such payments as may be required
7 pursuant to the terms of any contract entered into under the terms of Article
8 III.

9 “(4) Each receiving state shall provide regular reports to each sending
10 state on the inmates of that sending state in institutions pursuant to this
11 compact including a conduct record of each inmate and certify said record
12 to the official designated by the sending state, in order that each inmate may
13 have official review of his or her record in determining and altering the
14 disposition of said inmate in accordance with the law which may obtain in
15 the sending state and in order that the same may be a source of information
16 for the sending state.

17 “(5) All inmates who may be confined in an institution pursuant to the
18 provisions of this compact shall be treated in a reasonable and humane
19 manner and shall be treated equally with such similar inmates of the re-
20 ceiving state as may be confined in the same institution. The fact of con-
21 finement in a receiving state shall not deprive any inmate so confined of any
22 legal rights which said inmate would have had if confined in an appropriate
23 institution of the sending state.

24 “(6) Any hearing or hearings to which an inmate confined pursuant to
25 this compact may be entitled by the laws of the sending state may be had
26 before the appropriate authorities of the sending state, or of the receiving
27 state if authorized by the sending state. The receiving state shall provide
28 adequate facilities for such hearings as may be conducted by the appropriate
29 officials of a sending state. In the event such hearing or hearings are had
30 before officials of the receiving state, the governing law shall be that of the

1 sending state and a record of the hearing or hearings as prescribed by the
2 sending state shall be made. Said record together with any recommendations
3 of the hearing officials shall be transmitted forthwith to the official or offi-
4 cials before whom the hearing would have been had if it had taken place in
5 the sending state. In any and all proceedings had pursuant to the provisions
6 of this subsection, the officials of the receiving state shall act solely as
7 agents of the sending state and no final determination shall be made in any
8 matter except by the appropriate officials of the sending state.

9 “(7) Any inmate confined pursuant to this compact shall be released
10 within the territory of the sending state unless the inmate, and the sending
11 and receiving states, shall agree upon release in some other place. The
12 sending state shall bear the cost of such return to its territory.

13 “(8) Any inmate confined pursuant to the terms of this compact shall have
14 any and all rights to participate in and derive any benefits or incur or be
15 relieved of any obligations or have such obligations modified or the status
16 of the inmate changed on account of any action or proceeding in which the
17 inmate could have participated if confined in any appropriate institution of
18 the sending state located within such state.

19 “(9) The parent, guardian, trustee, or other person or persons entitled
20 under the laws of the sending state to act for, advise, or otherwise function
21 with respect to any inmate shall not be deprived of or restricted in the ex-
22 ercise of any power in respect of any inmate confined pursuant to the terms
23 of this compact.

24 ARTICLE V

25 ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION

26 “(1) Any decision of the sending state in respect of any matter over which
27 it retains jurisdiction pursuant to this compact shall be conclusive upon and
28 not reviewable within the receiving state, but if at the time the sending state
29 seeks to remove an inmate from an institution in the receiving state there
30 is pending against the inmate within such state any criminal charge or if the

1 inmate is formally accused of having committed within such state a criminal
2 offense, the inmate shall not be returned without the consent of the receiving
3 state until discharged from prosecution or other form of proceeding,
4 imprisonment or detention for such offense. The duly accredited officers of
5 the sending state shall be permitted to transport inmates pursuant to this
6 compact through any and all states party to this compact without interfer-
7 ence.

8 “(2) An inmate who escapes from an institution in which the inmate is
9 confined pursuant to this compact shall be deemed a fugitive from the send-
10 ing state and from the state in which the institution is situated. In the case
11 of an escape to a jurisdiction other than the sending or receiving state, the
12 responsibility for institution of extradition or rendition proceedings shall be
13 that of the sending state, but nothing contained in this compact shall be
14 construed to prevent or affect the activities of officers and agencies of any
15 jurisdiction directed toward the apprehension and return of an escapee.

16 ARTICLE VI

17 FEDERAL AID

18 “Any state party to this compact may accept federal aid for use in con-
19 nection with any institution or program, the use of which is or may be af-
20 fected by this compact or any contract pursuant hereto and any inmate in
21 a receiving state pursuant to this compact may participate in any such
22 federally aided program or activity for which the sending and receiving
23 states have made contractual provision; provided, that if such program or
24 activity is not part of the customary correctional regimen the express con-
25 sent of the appropriate official of the sending state shall be required there-
26 for.

27 ARTICLE VII

28 ENTRY INTO FORCE

29 “This compact shall enter into force and become effective and binding
30 upon the states so acting when it has been enacted into law by any two

1 states. Thereafter, this compact shall enter into force and become effective
2 and binding as to any other of said states upon similar action by such state.

3 ARTICLE VIII

4 WITHDRAWAL AND TERMINATION

5 “This compact shall continue in force and remain binding upon a party
6 state until it shall have enacted a statute repealing the same and providing
7 for the sending of formal written notice of withdrawal from the compact to
8 the appropriate officials of all other party states. An actual withdrawal shall
9 not take effect until one year after the notices provided in said statute have
10 been sent. Such withdrawal shall not relieve the withdrawing state from its
11 obligations assumed hereunder prior to the effective date of withdrawal. Be-
12 fore the effective date of withdrawal, a withdrawing state shall remove to
13 its territory, at its own expense, such inmates as it may have confined pur-
14 suant to the provisions of this compact.

15 ARTICLE IX

16 OTHER ARRANGEMENTS UNAFFECTED

17 “Nothing contained in this compact shall be construed to abrogate or
18 impair any agreement or other arrangement which a party state may have
19 with a nonparty state for the confinement, rehabilitation or treatment of
20 inmates nor to repeal any other laws of a party state authorizing the making
21 of cooperative institutional arrangements.

22 ARTICLE X

23 CONSTRUCTION AND SEVERABILITY

24 “The provisions of this compact shall be liberally construed and shall be
25 severable. If any phrase, clause, sentence or provision of this compact is de-
26 clared to be contrary to the constitution of any participating state or of the
27 United States or the applicability thereof to any government, agency, person
28 or circumstance is held invalid, the validity of the remainder of this compact
29 and the applicability thereof to any government, agency, person or circum-
30 stance shall not be affected thereby. If this compact shall be held contrary

1 to the constitution of any state participating therein, the compact shall re-
2 main in full force and effect as to the remaining states and in full force and
3 effect as to the state affected as to all severable matters.

4 “ _____

5 **“SECTION 16.** ORS 421.284 is amended to read:

6 “421.284. The Western Interstate Corrections Compact hereby is enacted
7 into law and entered into on behalf of this state with all other states legally
8 joining therein in a form substantially as follows:

9 “ _____

10 **ARTICLE I**
11 **PURPOSE AND POLICY**

12 “The party states, desiring by common action to improve their institu-
13 tional facilities and provide programs of sufficiently high quality for the
14 confinement, treatment and rehabilitation of various types of offenders, de-
15 clare that it is the policy of each of the party states to provide such facilities
16 and programs on a basis of cooperation with one another, thereby serving
17 the best interests of such offenders and of society. The purpose of this com-
18 pact is to provide for the development and execution of such programs of
19 cooperation for the confinement, treatment and rehabilitation of offenders.

20 **ARTICLE II**
21 **DEFINITIONS**

22 “As used in this compact, unless the context clearly requires otherwise:

23 “(a) ‘State’ means a state of the United States or, subject to the limitation
24 contained in Article VII, Guam.

25 “(b) ‘Sending state’ means a state party to this compact in which con-
26 viction was had.

27 “(c) ‘Receiving state’ means a state party to this compact to which an
28 inmate is sent for confinement other than a state in which conviction was
29 had.

30 “(d) ‘Inmate’ means a male or female offender who is under sentence to

1 or confined in a prison or other correctional institution.

2 “(e) ‘Institution’ means any prison, reformatory or other correctional fa-
3 cility (including but not limited to a facility for persons with mental illness
4 [*or intellectual disabilities*]) in which inmates may lawfully be confined.

5 ARTICLE III

6 CONTRACTS

7 “(a) Each party state may make one or more contracts with any one or
8 more of the other party states for the confinement of inmates on behalf of
9 a sending state in institutions situated within receiving states. Any such
10 contract shall provide for:

11 “1. Its duration.

12 “2. Payments to be made to the receiving state by the sending state for
13 inmate maintenance, extraordinary medical and dental expenses, and any
14 participation in or receipt by inmates of rehabilitative or correctional ser-
15 vices, facilities, programs or treatment not reasonably included as part of
16 normal maintenance.

17 “3. Participation in programs of inmate employment, if any; the disposi-
18 tion or crediting of any payments received by inmates on account thereof;
19 and the crediting of proceeds from or disposal of any products resulting
20 therefrom.

21 “4. Delivery and retaking of inmates.

22 “5. Such other matters as may be necessary and appropriate to fix the
23 obligations, responsibilities and rights of the sending and receiving states.

24 “(b) Prior to the construction or completion of construction of any insti-
25 tution or addition thereto by a party state, any other party state or states
26 may contract therewith for the enlargement of the planned capacity of the
27 institution or addition thereto, or for the inclusion therein of particular
28 equipment or structures, and for the reservation of a specific percentum of
29 the capacity of the institution to be kept available for use by inmates of the
30 sending state or states so contracting. Any sending state so contracting may,

1 to the extent that monies are legally available therefor, pay to the receiving
2 state, a reasonable sum as consideration for such enlargement of capacity,
3 or provision of equipment or structures, and reservation of capacity. Such
4 payment may be in a lump sum or in installments as provided in the con-
5 tract.

6 “(c) The terms and provisions of this compact shall be a part of any
7 contract entered into by the authority of or pursuant thereto, and nothing
8 in any such contract shall be inconsistent therewith.

9 ARTICLE IV

10 PROCEDURES AND RIGHTS

11 “(a) Whenever the duly constituted judicial or administrative authorities
12 in a state party to this compact, and which has entered into a contract
13 pursuant to Article III, shall decide that confinement in, or transfer of an
14 inmate to, an institution within the territory of another party state is nec-
15 essary in order to provide adequate quarters and care or desirable in order
16 to provide an appropriate program of rehabilitation or treatment, said offi-
17 cials may direct that the confinement be within an institution within the
18 territory of said other party state, the receiving state to act in that regard
19 solely as agent for the sending state.

20 “(b) The appropriate officials of any state party to this compact shall have
21 access, at all reasonable times, to any institution in which it has a contrac-
22 tual right to confine inmates for the purpose of inspecting the facilities
23 thereof and visiting such of its inmates as may be confined in the institution.

24 “(c) Inmates confined in an institution pursuant to the terms of this
25 compact shall at all times be subject to the jurisdiction of the sending state
26 and may at any time be removed therefrom for transfer to a prison or other
27 institution within the sending state, for transfer to another institution in
28 which the sending state may have a contractual or other right to confine
29 inmates, for release on probation or parole, for discharge, or for any other
30 purpose permitted by the laws of the sending state; provided that the sending

1 state shall continue to be obligated to such payments as may be required
2 pursuant to the terms of any contract entered into under the terms of Article
3 III.

4 “(d) Each receiving state shall provide regular reports to each sending
5 state on the inmates of that sending state in institutions pursuant to this
6 compact including a conduct record of each inmate and certify said record
7 to the official designated by the sending state, in order that each inmate may
8 have the benefit of his or her record in determining and altering the dispo-
9 sition of said inmate in accordance with the law which may obtain in the
10 sending state and in order that the same may be a source of information for
11 the sending state.

12 “(e) All inmates who may be confined in an institution pursuant to the
13 provisions of this compact shall be treated in a reasonable and humane
14 manner and shall be cared for and treated equally with such similar inmates
15 of the receiving state as may be confined in the same institution. The fact
16 of confinement in a receiving state shall not deprive any inmate so confined
17 of any legal rights which said inmate would have had if confined in an ap-
18 propriate institution of the sending state.

19 “(f) Any hearing or hearings to which an inmate confined pursuant to this
20 compact may be entitled by the laws of the sending state may be had before
21 the appropriate authorities of the sending state, or of the receiving state if
22 authorized by the sending state. The receiving state shall provide adequate
23 facilities for such hearings as may be conducted by the appropriate officials
24 of a sending state. In the event such hearing or hearings are had before of-
25 ficials of the receiving state, the governing law shall be that of the sending
26 state and a record of the hearing or hearings as prescribed by the sending
27 state shall be made. Said record together with any recommendations of the
28 hearing officials shall be transmitted forthwith to the official or officials
29 before whom the hearing would have been had if it had taken place in the
30 sending state. In any and all proceedings had pursuant to the provisions of

1 this subdivision, the officials of the receiving state shall act solely as agents
2 of the sending state and no final determination shall be made in any matter
3 except by the appropriate officials of the sending state. Costs of records
4 made pursuant to this subdivision shall be borne by the sending state.

5 “(g) Any inmate confined pursuant to this compact shall be released
6 within the territory of the sending state unless the inmate, and the sending
7 and receiving states, shall agree upon release in some other place. The
8 sending state shall bear the cost of such return to its territory.

9 “(h) Any inmate confined pursuant to the terms of this compact shall have
10 any and all rights to participate in and derive any benefits or incur or be
11 relieved of any obligations or have such obligations modified or the status
12 of the inmate changed on account of any action or proceeding in which the
13 inmate could have participated if confined in any appropriate institution of
14 the sending state located within such state.

15 “(i) The parent, guardian, trustee, or other person or persons entitled
16 under the laws of the sending state to act for, advise, or otherwise function
17 with respect to any inmate shall not be deprived of or restricted in the ex-
18 ercise of any power in respect of any inmate confined pursuant to the terms
19 of this compact.

20 ARTICLE V

21 ACTS NOT REVIEWABLE IN RECEIVING STATE: EXTRADITION

22 “(a) Any decision of the sending state in respect of any matter over which
23 it retains jurisdiction pursuant to this compact shall be conclusive upon and
24 not reviewable within the receiving state, but if at the time the sending state
25 seeks to remove an inmate from an institution in the receiving state there
26 is pending against the inmate within such state any criminal charge or if the
27 inmate is suspected of having committed within such state a criminal offense,
28 the inmate shall not be returned without the consent of the receiving state
29 until discharged from prosecution or other form of proceeding, imprisonment
30 or detention for such offense. The duly accredited officers of the sending

1 state shall be permitted to transport inmates pursuant to this compact
2 through any and all states party to this compact without interference.

3 “(b) An inmate who escapes from an institution in which the inmate is
4 confined pursuant to this compact shall be deemed a fugitive from the send-
5 ing state and from the state in which the institution is situated. In the case
6 of an escape to a jurisdiction other than the sending or receiving state, the
7 responsibility for institution of extradition proceedings shall be that of the
8 sending state, but nothing contained herein shall be construed to prevent or
9 affect the activities of officers and agencies of any jurisdiction directed to-
10 ward the apprehension and return of an escapee.

11 ARTICLE VI

12 FEDERAL AID

13 “Any state party to this compact may accept federal aid for use in con-
14 nection with any institution or program, the use of which is or may be af-
15 fected by this compact or any contract pursuant hereto and any inmate in
16 a receiving state pursuant to this compact may participate in any such
17 federally aided program or activity for which the sending and receiving
18 states have made contractual provision provided that if such program or ac-
19 tivity is not part of the customary correctional regimen the express consent
20 of the appropriate official of the sending state shall be required therefor.

21 ARTICLE VII

22 ENTRY INTO FORCE

23 “This compact shall enter into force and become effective and binding
24 upon the state so acting when it has been enacted into law by any two
25 contiguous states from among the states of Alaska, Arizona, California,
26 Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon,
27 Utah, Washington and Wyoming. For the purposes of this article, Alaska and
28 Hawaii shall be deemed contiguous to each other; to any and all of the states
29 of California, Oregon and Washington; and to Guam. Thereafter, this com-
30 pact shall enter into force and become effective and binding as to any other

1 of said states, or any other state contiguous to at least one party state upon
2 similar action by such state. Guam may become party to this compact by
3 taking action similar to that provided for joinder by any other eligible party
4 state and upon the consent of Congress to such joinder. For the purposes of
5 this article, Guam shall be deemed contiguous to Alaska, Hawaii, California,
6 Oregon and Washington.

7 ARTICLE VIII

8 WITHDRAWAL AND TERMINATION

9 “This compact shall continue in force and remain binding upon a party
10 state until it shall have enacted a statute repealing the same and providing
11 for the sending of formal written notice of withdrawal from the compact to
12 the appropriate officials of all other party states. An actual withdrawal shall
13 not take effect until two years after the notices provided in said statute have
14 been sent. Such withdrawal shall not relieve the withdrawing state from its
15 obligations assumed hereunder prior to the effective date of withdrawal. Be-
16 fore the effective date of withdrawal, a withdrawing state shall remove to
17 its territory, at its own expense, such inmates as it may have confined pur-
18 suant to the provisions of this compact.

19 ARTICLE IX

20 OTHER ARRANGEMENTS UNAFFECTED

21 “Nothing contained in this compact shall be construed to abrogate or
22 impair any agreement or other arrangement which a party state may have
23 with a nonparty state for the confinement, rehabilitation or treatment of
24 inmates nor to repeal any other laws of a party state authorizing the making
25 of cooperative institutional arrangements.

26 ARTICLE X

27 CONSTRUCTION AND SEVERABILITY

28 “The provisions of this compact shall be liberally construed and shall be
29 severable. If any phrase, clause, sentence or provision of this compact is de-
30 clared to be contrary to the constitution of any participating state or of the

1 United States or the applicability thereof to any government, agency, person
2 or circumstance is held invalid, the validity of the remainder of this compact
3 and the applicability thereof to any government, agency, person or circum-
4 stance shall not be affected thereby. If this compact shall be held contrary
5 to the constitution of any state participating therein, the compact shall re-
6 main in full force and effect as to the remaining states and in full force and
7 effect as to the state affected as to all severable matters.

8 “
9 **“SECTION 17. ORS 421.296 is amended to read:**
10 “421.296. The Interstate Forest Fire Suppression Compact is enacted into
11 law and entered into on behalf of this state with all other states legally
12 joining therein in a form substantially as follows:

13 “

14 **ARTICLE I**

15 **Purpose**

16 “The purpose of this compact is to provide for the development and exe-
17 cution of programs to facilitate the use of offenders in the forest fire sup-
18 pression efforts of the party states for the ultimate protection of life,
19 property and natural resources in the party states. The purpose of this com-
20 pact is also, in emergent situations, to allow a sending state to cross state
21 lines with an inmate when, because of weather or road conditions, it is
22 necessary to cross state lines to facilitate the transport of an inmate.

23 **ARTICLE II**

24 **Definitions**

25 “(1) ‘Sending state’ means a state party to this compact from which a fire
26 suppression unit is traveling.

27 “(2) ‘Receiving state’ means a state party to this compact to which a fire
28 suppression unit is traveling.

29 “(3) ‘Inmate’ means a male or female offender who is under sentence to
30 or confined in a prison or other correctional institution.

1 “(4) ‘Institution’ means any prison, reformatory, honor camp or other
2 correctional facility, except facilities for persons with mental illness [*or in-*
3 *tellectual disabilities*], in which inmates may lawfully be confined.

4 “(5) ‘Fire suppression unit’ means a group of inmates selected by the
5 sending states, corrections personnel and any other persons deemed neces-
6 sary for the transportation, supervision, care, security and discipline of in-
7 mates to be used in forest fire suppression efforts in the receiving state.

8 “(6) ‘Forest fire’ means any fire burning in any land designated by a party
9 state or the federal land management agencies as forestland.

10 ARTICLE III

11 Contracts

12 “(1) Each party state may make one or more contracts with any one or
13 more of the other party states for the assistance of one or more fire sup-
14 pression units in forest fire suppression efforts. Any such contract shall
15 provide for matters as may be necessary and appropriate to fix the obli-
16 gations, responsibilities and rights of the sending and receiving states.

17 “(2) The terms and provisions of this compact shall be part of any con-
18 tract entered into by the authority of, or pursuant to, this compact. Nothing
19 in any such contract may be inconsistent with this compact.

20 ARTICLE IV

21 Procedures and Rights

22 “(1) Each party state shall appoint a liaison for the coordination and de-
23 ployment of the fire suppression units of each party state.

24 “(2) Whenever the duly constituted judicial or administrative authorities
25 in a state party to this compact, which has entered into a contract pursuant
26 to this compact, decide that the assistance of a fire suppression unit of a
27 party state is required for forest fire suppression efforts, the authorities may
28 request the assistance of one or more fire suppression units of any state
29 party to this compact through an appointed liaison.

30 “(3) Inmates who are members of a fire suppression unit shall at all times

1 be subject to the jurisdiction of the sending state and at all times shall be
2 under the ultimate custody of corrections officers duly accredited by the
3 sending state.

4 “(4) The receiving state must make adequate arrangements for the con-
5 finement of inmates who are members of a fire suppression unit of a sending
6 state in the event corrections officers duly accredited by the sending state
7 make a discretionary determination that an inmate requires institutional
8 confinement.

9 “(5) Cooperative efforts shall be made by corrections officers and person-
10 nel of the receiving state located at a fire camp with the corrections officers
11 and other personnel in the establishment and maintenance of fire suppression
12 unit base camps.

13 “(6) All inmates who are members of a fire suppression unit of a sending
14 state shall be cared for and treated equally with such similar inmates of the
15 receiving state.

16 “(7) Further, in emergent situations, a sending state shall be granted au-
17 thority and all the protections of this compact to cross state lines with an
18 inmate when, because of road conditions, it is necessary to facilitate the
19 transport of an inmate.

20 ARTICLE V

21 Acts Not Reviewable

22 in Receiving State: Extradition

23 “(1) If while located within the territory of a receiving state there occurs
24 against the inmate within such state any criminal charge or if the inmate
25 is suspected of committing within such state a criminal offense, the inmate
26 shall not be returned without the consent of the receiving state until dis-
27 charged from prosecution or other form of proceeding, imprisonment or de-
28 tention for such offense. The duly accredited officers of the sending state
29 shall be permitted to transport inmates pursuant to this compact through
30 any and all states party to this compact without interference.

1 “(2) An inmate member of a fire suppression unit of the sending state who
2 is deemed to have escaped by a duly accredited corrections officer of a
3 sending state shall be under the jurisdiction of both the sending state and
4 the receiving state. Nothing contained in this Article shall be construed to
5 prevent or affect the activities of officers and guards of any jurisdiction di-
6 rected toward the apprehension and return of an escapee.

7 ARTICLE VI

8 Entry into Force

9 “This compact shall enter into force and become effective and binding
10 upon approval of this compact by at least two of the states from among the
11 States of Idaho, Oregon and Washington.

12 ARTICLE VII

13 Withdrawal and Termination

14 “This compact shall continue in force and remain binding upon a party
15 state until it shall have enacted a statute repealing the same and providing
16 for the sending of formal written notice of withdrawal from the compact to
17 the appropriate officials of all other party states.

18 ARTICLE VIII

19 Other Arrangements Unaffected

20 “Nothing contained in this compact shall be construed to abrogate or
21 impair any agreement which a party state may have with a nonparty state
22 for the confinement, rehabilitation or treatment of inmates nor to repeal any
23 other laws of a party state authorizing the making of cooperative institu-
24 tional arrangements.

25 ARTICLE IX

26 Construction and Severability

27 “The provisions of this compact shall be liberally construed and shall be
28 severable. If any phrase, clause, sentence or provision of this compact is de-
29 clared to be contrary to the constitution of any participating state or of the
30 United States or the applicability thereof to any government, agency, person

1 or circumstance is held invalid, the validity of the remainder of this compact
2 and the applicability thereof to any government, agency, person or circum-
3 stance shall not be affected thereby. If this compact shall be held contrary
4 to the constitution of any state participating therein, the compact shall re-
5 main in full force and effect as to the remaining states and in full force and
6 effect as to the state affected as to all severable matters.

7 “

8 **“SECTION 18.** ORS 428.210 is amended to read:

9 “428.210. As used in ORS 428.210 to 428.270:

10 “(1) ‘Authority’ means the Oregon Health Authority.

11 “(2) ‘Department’ means the Department of Human Services.

12 “[3] ‘Facility’ has the meaning given that term in ORS 427.005.]

13 “[4] (3) ‘Foreign hospital’ means an institution in any other state that
14 corresponds to a state hospital.

15 “[5] (4) ‘Nonresident’ means any person who is not a resident of this
16 state.

17 “[6] (5) ‘Other state’ includes all the states, territories, possessions,
18 commonwealths and agencies of the United States and the District of
19 Columbia, with the exception of the State of Oregon.

20 “[7] (6) ‘Patient’ means any person who has been committed by a court
21 of competent jurisdiction to a [*facility pursuant to ORS 427.235 to 427.290 or*
22 *to a*] state hospital, except a person committed to a state hospital pursuant
23 to ORS 161.341 or 161.370.

24 “[8] (7) ‘Resident of this state’ means a person who resides in this state
25 and who has not acquired legal residence in any other state. However, a
26 service man or woman on active duty in the Armed Forces of the United
27 States who was domiciled in Oregon upon entry into active duty and who
28 has acquired no other domicile shall be entitled to have his or her child
29 considered a resident of this state so long as no other domicile is acquired
30 by the service man or woman.

1 “[9] (8) ‘State hospital’ means any institution listed in ORS 426.010.

2 **“SECTION 19.** ORS 428.220 is amended to read:

3 “428.220. (1) In determining whether or not any person committed by a
4 court of competent jurisdiction to a state hospital[,] **or** foreign hospital [*or*
5 *facility*] is a resident of this state:

6 “(a) The time spent in a state hospital or foreign hospital or on parole
7 from a state hospital or foreign hospital[, *or in a facility*] shall not be
8 counted in determining the residence of such person in this or any other
9 state.

10 “(b) The residence of such person at the time of commitment shall remain
11 the residence of the person for the duration of the commitment of the person.

12 “[2] *The Department of Human Services may give written authorization for*
13 *the admission to a facility whenever:]*

14 “[*(a) The residence of any person cannot be established after reasonable and*
15 *diligent investigation and effort.]*

16 “[*(b) The peculiar circumstances of a case, in the judgment of the depart-*
17 *ment, provide a sufficient reason for the suspension of the residence require-*
18 *ment provided by ORS 428.210 (8).]*

19 “[3] (2) The Oregon Health Authority may give written authorization for
20 the admission to the Oregon State Hospital whenever:

21 “(a) The residence of any person cannot be established after reasonable
22 and diligent investigation and effort.

23 “(b) The peculiar circumstances of a case, in the judgment of the au-
24 thority, provide a sufficient reason for the suspension of the residence re-
25 quirement provided by ORS 428.210 [(8)] (7).

26 **“SECTION 20.** ORS 428.230 is amended to read:

27 “428.230. (1) Except as provided in ORS 428.205, 428.220 and 428.330, the
28 [*Department of Human Services and the*] Oregon Health Authority shall re-
29 turn nonresident patients to any other state in which they may have legal
30 residence.

1 “[(2) *The department may give written authorization for the return to a*
2 *facility of a resident of Oregon who has been committed by a court of competent*
3 *jurisdiction to a foreign hospital.*]

4 “[(3) *The facility shall admit and care for any person eligible for admission*
5 *pursuant to subsection (2) of this section or ORS 428.220 (2) upon receipt of a*
6 *certified copy of the commitment papers and the written authorization of the*
7 *department.*]

8 “[(4)] (2) The authority may give written authorization for the return to
9 the Oregon State Hospital of a resident of Oregon who has been committed
10 by a court of competent jurisdiction to a foreign hospital.

11 “[(5)] (3) The superintendent of the Oregon State Hospital shall admit and
12 care for any person eligible for admission pursuant to subsection [(4)] (2) of
13 this section or ORS 428.220 [(3)] (2) upon receipt of a certified copy of the
14 commitment papers and the written authorization of the authority.

15 “**SECTION 21.** ORS 428.240 is amended to read:

16 “428.240. [(1) *For the purpose of facilitating the return of nonresident pa-*
17 *tients, the Department of Human Services may enter into a reciprocal agree-*
18 *ment with any other state for the mutual exchange of persons committed by a*
19 *court of competent jurisdiction to a facility pursuant to ORS 427.235 to 427.290*
20 *or to a foreign hospital, whose legal residence is in the other’s jurisdiction.*]

21 “[(2)] (1) For the purpose of facilitating the return of nonresident pa-
22 tients, the Oregon Health Authority may enter into a reciprocal agreement
23 with any other state for the mutual exchange of persons committed by a
24 court of competent jurisdiction to the Oregon State Hospital or a foreign
25 hospital, whose legal residence is in the other’s jurisdiction.

26 “[(3)] (2) In such agreements, the [*department or*] authority may:

27 “(a) Only for purposes of mutual exchange with the other state, vary the
28 period of residence required by ORS 428.210 [(8)] (7).

29 “(b) Provide for the arbitration of disputes arising out of the mutual ex-
30 change of such persons between this state and any other state.

1 **SECTION 22.** ORS 428.260 is amended to read:

2 “428.260. (1) For the purpose of carrying out the provisions of ORS 428.210
3 to 428.270, the [*Department of Human Services or the*] Oregon Health Au-
4 thority may employ all help necessary in arranging for and transporting
5 nonresident patients.

6 “(2) The cost and expense of providing such assistance and all expenses
7 incurred in effecting the transportation of such patients shall be paid from
8 funds appropriated for that purpose upon vouchers approved by the [*depart-*
9 *ment, the*] authority or the superintendent of the Oregon State Hospital.

10 **SECTION 23.** ORS 428.270 is amended to read:

11 “428.270. (1) Any person, except an officer, agent or employee of a common
12 carrier acting in the line of duty, who brings or in any way aids in bringing
13 into this state any patient without the written authorization of the [*Depart-*
14 *ment of Human Services or the*] Oregon Health Authority, shall be liable to
15 this state for all expenses incurred in the care of such patient and in the
16 transportation of such patient to the other state where the patient legally
17 resides.

18 “(2) Hospitals, other than state hospitals, that care for and treat persons
19 with mental illness shall be responsible for the return of those persons to
20 their places of residence or domicile outside the state if they are brought
21 into this state for treatment and care and are discharged from such insti-
22 tutions without being fully recovered.

23 “(3) Failure to comply with the provisions of subsection (2) of this section
24 shall render the person operating the hospital liable to reimburse the state
25 for all expenses incurred in the care, maintenance and return of the persons
26 with mental illness to their places of residence or domicile outside the state.

27 **SECTION 24.** ORS 480.225 is amended to read:

28 “480.225. (1) A person is eligible for a certificate of possession under ORS
29 480.235 if:

30 “(a) The person has not been convicted, or found guilty except for insan-

1 ity under ORS 161.295, of a misdemeanor involving violence, as defined in
2 ORS 166.470, within the previous four years. A person who has been so con-
3 victed is eligible under this subsection following the expiration of seven
4 years after the date of final and unconditional discharge from all
5 imprisonment, probation and parole resulting from the conviction.

6 “(b) The person has not been convicted, or found guilty except for insan-
7 ity under ORS 161.295, of, and is not under indictment for, any felony.

8 “(c) The person is not a fugitive from justice, has no outstanding warrants
9 for arrest and is not free on any form of pretrial release for any offenses
10 listed in paragraphs (a) and (b) of this subsection.

11 “(d) The person has not been determined to be a person with mental ill-
12 ness under ORS 426.130 [*or to have an intellectual disability under ORS*
13 *427.290*]. A person who previously has been so determined is eligible under
14 this subsection if, at the time of application for such a certificate, the person
15 produces a certified copy of a full discharge from the proper state hospital.
16 The Oregon Health Authority shall provide the State Fire Marshal with di-
17 rect electronic access to the authority’s database of information identifying
18 persons meeting the criteria of this section who were committed or subject
19 to an order under ORS 426.130. The State Fire Marshal and the authority
20 shall enter into an agreement describing the access to information under this
21 subsection.

22 “(e) The person is at least 21 years of age.

23 “(f) The person does not use a fictitious name or make a material mis-
24 representation in application for such a certificate.

25 “(g)(A) The person has not been convicted of, and is not under indictment
26 for, a criminal offense involving a controlled substance as defined in ORS
27 475.005, other than the offense of driving under the influence of intoxicants.

28 “(B) Notwithstanding subparagraph (A) of this paragraph, a person who
29 has had a certificate denied or revoked due to conviction of a criminal of-
30 fense involving a controlled substance is eligible under this section following

1 the expiration of seven years after the date of final and unconditional dis-
2 charge from all imprisonment, probation and parole resulting from the con-
3 viction.

4 “(h) The person has been discharged from the jurisdiction of the juvenile
5 court for more than four years for an act that, if committed by an adult,
6 would constitute a felony or a misdemeanor involving violence, as defined
7 in ORS 166.470.

8 “(i) The person is not the subject of a restraining order that alleges the
9 person’s possession of explosives presents a credible threat to another person.

10 “(j) The person has passed an examination administered by the State Fire
11 Marshal that assesses the person’s knowledge of safety in the transportation
12 and storage of explosives as required under federal and state laws and reg-
13 ulations pertaining to explosives. The State Fire Marshal shall examine each
14 applicant prior to issuance of a certificate of possession to the applicant.
15 The State Fire Marshal may by rule establish and collect an examination fee
16 in an amount necessary to cover the cost of administering the examination.

17 “(k) The person certifies on the application for a certificate of possession
18 that all explosives in the person’s possession will be used, stored and trans-
19 ported in accordance with federal, state and local requirements.

20 “(L) The person certifies that all explosives will be possessed, used, stored
21 and transported in accordance with federal, state and local requirements.

22 “(2) Subsection (1)(a) and (b) of this section does not apply to a conviction
23 or indictment that has been expunged from a person’s record under the laws
24 of this state or equivalent laws of another jurisdiction.

25 **“SECTION 25. This 2023 Act takes effect on July 1, 2024.”.**

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